

**IN THE ELEVENTH JUDICIAL CIRCUIT, STATE OF MISSOURI
CIRCUIT JUDGE DIVISION**

ROBERT N. JENNE,)	
)	
Plaintiff,)	
)	Case No.: 1711-CC00215
vs.)	
)	Division No.: 7
CITY OF LOUISIANA, et al.,)	
)	
Defendants.)	

FILED

3:13 pm, Apr 30, 2019

**Cheryl Crowder
CIRCUIT CLERK**

**11TH JUDICIAL CIRCUIT
ST CHARLES COUNTY**

ORDER AND FINAL JUDGMENT

The cause was called and a jury trial held on October 23, 24, 25 and 26, 2018. Plaintiff appeared with counsel, Mr. W. Christopher McDonough and Ms. Julianne O. Germinder. Defendants appeared with counsel, Mr. Bradley R. Hansmann. Plaintiff Robert Jenne asserted claims for compensatory damages, punitive damages and for equitable relief. There were three (3) counts alleged in Plaintiff's Second Amended Petition: Count I – Age Discrimination (Missouri Human Rights Act ("MHRA") §213.055 R.S.Mo.); Count II – Retaliation (MHRA §213.070 R.S.Mo.); and Count III – Unlawful Removal of a Police Chief from Office or Employment (§106.273.2 R.S.Mo.). Sixty-one (61) veniremen were present, sworn and found qualified, and therefrom twelve (12) jurors and one (1) alternate were duly selected, sworn and instructed. Plaintiff and Defendants made opening statements. Plaintiff presented evidence and rested the case. Prior to resting the case, Plaintiff dismissed from the case individual Defendants Chuck Hoffman, Kathy Smith, Mona Brown, Jeff Guay and Lori Lewis. Defendants presented evidence and rested the case. There was no rebuttal evidence. Thereafter, the evidence in the case was declared closed. Counts I and II were submitted to the Jury as to their claims for damages; the equitable claims of Counts I-II were reserved for the Court to be decided consistent with the Jury's verdict. Because Count III presented only a claim for equitable relief, it was similarly not submitted

to the Jury but reserved for the Court. The Jury was instructed and the case argued. The deputy was sworn, the alternate juror was released and the Jury withdrew to deliberate. Thereafter, the Jury returned to open court on October 26, 2018 and reported its verdict as follows:

“On the claim of Robert Jenne for compensatory damages against Defendant Bart Niedner for age discrimination, we, the undersigned jurors, find in favor of: Defendant Bart Niedner.

On the claim of Robert Jenne for compensatory damages against Defendant City of Louisiana for age discrimination, we, the undersigned jurors, find in favor of: Defendant City of Louisiana.

On the claim of Robert Jenne for compensatory damages against Defendant Bart Niedner for retaliation, we, the undersigned jurors, find in favor of: Plaintiff Robert Jenne.

On the claim of Robert Jenne for compensatory damages against Defendant City of Louisiana for retaliation, we, the undersigned jurors, find in favor of: Plaintiff Robert Jenne.

We, the undersigned jurors, assess the compensatory damages of Plaintiff Robert Jenne at \$188,000.00.

We, the undersigned jurors, find that Defendant Bart Niedner is not liable for punitive damages.

We, the undersigned jurors, find that Defendant City of Louisiana is not liable for punitive damages.”

The Court accepted the jury verdict and discharged the jury.

Plaintiff moved for equitable relief seeking either reinstatement to the position of City of Louisiana Chief of Police at the annual salary of \$78,000.00 or, in the alternative, front pay in the amount of \$321,897.69. Plaintiff also moved for an award of attorneys’ fees and costs under the MHRA. Plaintiff sought \$279,730.00 for attorneys’ fees and \$7,111.41 for costs, for a total of \$286,841.41. Plaintiff’s motion for equitable relief came before the Court for hearing on November 16, 2018. After oral argument, the Court took the motion under submission. Plaintiff’s motion for attorneys’ fees and costs under the MHRA then came before the Court for hearing on February 15, 2019. The motion was briefed by the parties. After oral argument, the Court took the motion under submission on March 4, 2019 after receipt of the parties proposed judgments and legal memorandums.

Based on the evidence adduced at trial, and consistent with the Jury's verdict, the parties submissions, legal memorandums and arguments, the Court makes the following findings of fact relevant to the equitable issues and Judgment entered herein:

1. Plaintiff was a veteran law enforcement officer with public safety management experience who was employed by Defendant City of Louisiana from 2008 until 2015.

2. Plaintiff was constructively discharged in February of 2015, and Plaintiff's complaint of discrimination was a contributing factor in such discharge.

3. Plaintiff's annual salary was \$78,000.00.

4. At the time of his constructive discharge in February of 2015, Plaintiff was serving as the duly-appointed Chief of Police for the City of Louisiana and was entitled to the statutory protections afforded all Missouri police chiefs under §106.273 R.S.Mo.

5. Defendant City of Louisiana had no "just cause" (as defined by §106.273.1(2) R.S.Mo.) to remove Plaintiff as Chief of Police.

6. Defendant City of Louisiana failed to comply with the provisions of §106.273.2 R.S.Mo. by denying Plaintiff the statutorily required written "just cause" notice, any opportunity for a hearing and any opportunity to appeal his removal as Chief of Police.

7. Because Defendant City of Louisiana failed to comply with the requirements of §106.273.2, Plaintiff was deprived of the opportunity to seek any administrative remedy.

8. Plaintiff was sixty-four (64) years of age when he was constructively discharged in February of 2015.

9. Plaintiff intended to continue working until his planned retirement age of seventy-five (75) and has been unable to find comparable employment as a police chief elsewhere.

10. Defendant City of Louisiana currently has another individual employed as its Chief of Police who has been in that position since 2015.

11. The Court finds it unlikely the employer-employee relationship between Plaintiff and Defendant City of Louisiana can be repaired such that a productive and amicable working relationship would be possible.

12. Because reinstatement is not feasible in this case, the Court finds it is just, proper and equitable under the unique circumstances at issue here to grant Plaintiff front pay as an alternative equitable remedy under the MHRA.

Accordingly, it is **ORDERED, ADJUDGED and DECREED** that:

Consistent with the Jury's verdict on Count I (MHRA Age Discrimination), judgment is entered in favor of Defendants City of Louisiana and Bart Niedner and against Plaintiff Robert Jenne.

Consistent with the Jury's verdict on Count II (MHRA Retaliation) judgment is entered in favor of Plaintiff Robert Jenne and against Defendants City of Louisiana and Bart Niedner. Plaintiff Robert Jenne shall have and recover from Defendants City of Louisiana and Bart Niedner, jointly and severally, the sum of \$188,000.00 as and for compensatory damages.

Plaintiff's motion for equitable relief pursuant to §213.111.2 R.S.Mo. is granted. Having found that Plaintiff is entitled to equitable relief under the MHRA, but having also found that reinstatement is not feasible under the unique circumstances of this case, the Court awards Plaintiff front pay as an alternative equitable remedy. Plaintiff Robert Jenne is awarded, and shall have and recover from Defendants City of Louisiana and Bart Niedner, jointly and severally, the sum of \$321,897.69 as and for front pay.

On Count III (Wrongful Removal of a Police Chief in Violation of §106.273.2 R.S.Mo.), based on the evidence adduced at trial judgment is entered in favor of Plaintiff Robert Jenne and against Defendant City of Louisiana. Because the Court finds reinstatement is not feasible under the circumstances, and because the Court is granting Plaintiff the full measure of equitable relief sought pursuant to the MHRA, the question of an appropriate equitable remedy for Defendant City of Louisiana's violation of §106.273.2 is moot and therefore need not be reached by this Court.

Plaintiff's motion for attorneys' fees and costs pursuant to §213.111.2 R.S.Mo. is granted. Judgment is entered in favor of Plaintiff Robert Jenne and against Defendants City of Louisiana and Bart Niedner, jointly and severally, for the sum of \$286,841.41 as and for attorneys' fees and costs which the Court finds to be reasonable.

The total amount of the judgment awarded herein in favor of Plaintiff Robert Jenne and against Defendants City of Louisiana and Bart Niedner, jointly and severally, is \$796,739.10, such amount to bear post-judgment interest at the rate of 7.5% per annum until judgment is satisfied.

Taxable court costs of \$7,111.41 are assessed against Defendants.

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Daniel G. Pelikan', with a long horizontal stroke extending to the right.

Daniel G. Pelikan, Circuit Judge

Dated: April 30, 2019